

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF LA GRULLA
RN101417335

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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2017-0255-PWS-E

I. JURISDICTION AND STIPULATIONS

On JUL 31 2018, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of La Grulla (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a public water supply located at 223 Los Alegrias Road in La Grulla, Starr County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 3,102 service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(69).¹
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE § 7.002 and TEX. HEALTH & SAFETY CODE § 341.049, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 and TEX. HEALTH & SAFETY CODE § 341.031 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$3,955 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$3,164 of the penalty and \$791 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order. The deferred amount shall be waived only upon full compliance with all the terms and conditions contained in this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms

¹ Effective March 30, 2017, 30 TEX. ADMIN. CODE Chapter 290 was amended and as a result, the definition for a public water system was renumbered from § 290.38(69) to § 290.38(71) (42 TEX. REG. 1466).

or requirements contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.

5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Order.
7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that by December 9, 2016, the Respondent began maintaining a disinfectant residual of at least 0.2 milligrams per liter ("mg/L") of free chlorine throughout the distribution system.

II. ALLEGATIONS

During an investigation conducted on December 9, 2016 through December 20, 2016, an investigator documented that the Respondent:

1. Failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the Facility and its equipment, in violation of 30 TEX. ADMIN. CODE § 290.46(m). Specifically, the weirs on the Facility's east side claricone were corroded.
2. Failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the Facility and its equipment, in violation of 30 TEX. ADMIN. CODE § 290.46(m). Specifically, the filter walls on the Facility's Filter Nos. 1, 2, 3, and 4 were corroded.
3. Failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the Facility and its equipment, in violation of 30 TEX. ADMIN. CODE § 290.46(m). Specifically, the air scour equipment on the Facility's Filter Nos. 1, 2, 3, and 4 was not operating as required during the backwash cycle.
4. Failed to equip each filter installed after October 1, 2000 with facilities that allow the filter to be completely drained without removing other filters from service, in violation of 30 TEX. ADMIN. CODE § 290.42(d)(11)(G). Specifically, Filter Nos. 5 and 6 were not

equipped with facilities to allow the filters to be completely drained without removing Filter Nos. 1, 2, 3, and 4 from service.

5. Failed to provide air scour backwash or surface wash facilities for filters installed after January 1, 1996, in violation of 30 TEX. ADMIN. CODE § 290.42(d)(11)(F)(vii). Specifically, the Facility's Filter Nos. 5 and 6 lacked the proper additional equipment.
6. Failed to provide a treatment plant capacity of 0.6 gallon per minute ("gpm") per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(2)(B) and TEX. HEALTH & SAFETY CODE § 341.0315(c). Specifically, with 3,102 connections, the Facility's total production capacity was 1,400 gpm; however, the system is required to provide a minimum total production capacity of 1,861.2 gpm, indicating a 24.8% deficiency.
7. Failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the Facility and its equipment, in violation of 30 TEX. ADMIN. CODE § 290.46(m). Specifically, the exterior of the Facility's west side ground storage tank showed corrosion on the roof and the interior showed corrosion and sediment.
8. Failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the Facility and its equipment, in violation of 30 TEX. ADMIN. CODE § 290.46(m). Specifically, the exterior of the standpipe at the water treatment plant showed surface rust, and the protective coating showed rusting, pitting, and corrosion. In addition, the access ladder and air vent had corrosion and the interior of the standpipe had corrosion on the protective coating.
9. Failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the Facility and its equipment, in violation of 30 TEX. ADMIN. CODE § 290.46(m). Specifically, the interior of the elevated storage tank used for distribution to the Alto Bonito area showed corrosion and heavy sediment, and the roof and roof hatch showed corrosion.
10. Failed to provide a raw water pump capacity of 0.6 gpm per connection with the largest pump out of service, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(2)(A) and TEX. HEALTH & SAFETY CODE § 341.0315(c). Specifically, with 3,102 connections, the Facility is required to provide a raw water pump capacity of 1,861.2 gpm with the largest pump out of service. The Facility provided 1,400 gpm of raw water pump capacity with the largest pump out of service, indicating a 24.8% deficiency.
11. Failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the Facility and its equipment, in violation of 30 TEX. ADMIN. CODE § 290.46(m). Specifically, the exterior and roof of the standpipe used for distribution to the La Victoria area had rust, and the interior showed corrosion.
12. Failed to properly maintain water works operation and maintenance records and make them available for review to the Executive Director during the investigation, in violation of 30 TEX. ADMIN. CODE § 290.46(f)(2) and (f)(3)(A)(iii). Specifically, records of the date, location, and nature of water quality, pressure, or outage complaints received by the system and the results of any subsequent complaint investigation were not available for review.

13. Failed to provide adequate ventilation, which includes high level and floor level screened vents, for all enclosures in which gas chlorine is being stored or fed, in violation of 30 TEX. ADMIN. CODE § 290.42(e)(4)(C).
14. Failed to provide adequate containment facilities for all liquid chemical storage tanks, in violation of 30 TEX. ADMIN. CODE § 290.42(f)(1)(E)(ii)(I). Specifically, the Facility's alum day tank did not have secondary containment.
15. Failed to calibrate the Facility's two flow meters annually, in violation of 30 TEX. ADMIN. CODE § 290.46(s)(1).
16. Failed to maintain all distribution system lines, storage and pressure maintenance facilities, water treatment units, and all related appurtenances in a watertight condition, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(4). Specifically, the Facility's raw water pump No. 1 was leaking excessively.
17. Failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the Facility and its equipment, in violation of 30 TEX. ADMIN. CODE § 290.46(m). Specifically, several sections of the fencing on the north side of the water treatment plant did not have three strands of barbed wire.
18. Failed to maintain a disinfectant residual of at least 0.2 mg/L of free chlorine throughout the distribution system at all times, in violation of 30 TEX. ADMIN. CODE §§ 290.46(d)(2)(A) and 290.110(b)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c). Specifically, on December 9, 2016, the free chlorine residual measured 0.00 mg/L at 2800 North Farm-to-Market Road 230.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of La Grulla, Docket No. 2017-0255-PWS-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order:
 - i. Begin maintaining completed monthly water works operation records and maintenance records, including but not limited to records of complaints, in accordance with 30 TEX. ADMIN. CODE § 290.46; and
 - ii. Calibrate the Facility's two flow meters at least once every year, in accordance with 30 TEX. ADMIN. CODE § 290.46.
 - b. Within 45 days after the effective date of this Order, submit written certification as described in Ordering Provision No. 2.j below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i and 2.a.ii.
 - c. Within 60 days after the effective date of this Order:
 - i. Repair or replace the corroded weirs on the Facility's east claricone, in accordance with 30 TEX. ADMIN. CODE § 290.46;
 - ii. Repair or replace the corroded filter walls on the Facility's Filter Nos. 1, 2, 3, and 4, in accordance with 30 TEX. ADMIN. CODE § 290.46;
 - iii. Repair or replace the air scour equipment on the Facility's Filter Nos. 1, 2, 3, and 4 so that it operates as required during the backwash cycle, in accordance with 30 TEX. ADMIN. CODE § 290.46;
 - iv. Provide adequate ventilation, which includes high level and floor level screened vents, for all enclosures in which gas chlorine is being stored or fed, in accordance with 30 TEX. ADMIN. CODE § 290.42; and
 - v. Repair the leak at the Facility's raw water pump No. 1, in accordance with 30 TEX. ADMIN. CODE § 290.46.
 - d. Within 75 days after the effective date of this Order, submit written certification as described in Ordering Provision No. 2.j below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.c.i through 2.c.v.
 - e. Within 90 days after the effective date of this Order:

- i. Provide adequate secondary containment facilities for all liquid chemical storage tanks, including but not limited to the alum day tank, in accordance with 30 TEX. ADMIN. CODE § 290.42; and
 - ii. Repair or replace the fence on the north side of the water treatment plant so that it includes three strands of barbed wire, in accordance with 30 TEX. ADMIN. CODE § 290.46.
- f. Within 105 days after the effective date of this Order, submit written certification as described in Ordering Provision No. 2.j below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.e.i and 2.e.ii.
- g. Within 180 days after the effective date of this Order:
 - i. Equip each filter installed after October 1, 2000 with facilities that allow the filter to be completely drained without removing other filters from service, including but not limited to Filter Nos. 5 and 6, in accordance with 30 TEX. ADMIN. CODE § 290.42;
 - ii. Provide air scour backwash or surface wash facilities for filters installed after January 1, 1996, including but not limited to Filter Nos. 5 and 6, in accordance with 30 TEX. ADMIN. CODE § 290.42;
 - iii. Repair or replace the Facility's west side ground storage tank, including but not limited to the corrosion on the roof and the corrosion and sediment on the interior, in accordance with 30 TEX. ADMIN. CODE § 290.46;
 - iv. Repair or replace the standpipe at the water treatment plant, including but not limited to the rust on the exterior surface, the rust, pitting, and corrosion on the protective coating, the corrosion on the access ladder and air vent, and the corrosion on the protective coating on the interior of the standpipe, in accordance with 30 TEX. ADMIN. CODE § 290.46;
 - v. Repair or replace the elevated storage tank used for distribution to the Alto Bonito area, including but not limited to the corrosion and heavy sediment on the interior and the corrosion on the roof and roof hatch, in accordance with 30 TEX. ADMIN. CODE § 290.46;
 - vi. Provide a raw water pump capacity of 0.6 gpm per connection with the largest pump out of service, in accordance with 30 TEX. ADMIN. CODE § 290.45; and
 - vii. Repair or replace the standpipe used for distribution to the La Victoria area, including but not limited to the rust on the exterior of the roof and the corrosion on the interior, in accordance with 30 TEX. ADMIN. CODE § 290.46.

- h. Within 195 days after the effective date of this Order, submit written certification as described in Ordering Provision No. 2.j below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.g.i through 2.g.vii.
- i. Within 365 days after the effective date of this Order, provide a treatment plant capacity of 0.6 gpm per connection, in accordance with 30 TEX. ADMIN. CODE § 290.45.
- j. Within 380 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.i. The certification shall be signed by the Respondent and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section Manager
Harlingen Regional Office
Texas Commission on Environmental Quality
1804 West Jefferson Avenue
Harlingen, Texas 78550-5247

- 3. All relief not expressly granted in this Order is denied.
- 4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
- 5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the

Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed above.

6. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

Pam Hancock
For the Executive Director

7/31/18
Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this Order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Pedro Flores
Signature

6-7-18
Date

Pedro Flores
Name (Printed or typed)
Authorized Representative of
City of La Grulla

Mayor
Title

☐ If mailing address has changed, please check this box and provide the new address below:

Bryan W. Shaw, Ph.D., P.E., *Chairman*
Toby Baker, *Commissioner*
Jon Niermann, *Commissioner*
Stephanie Bergeron Perdue, *Interim Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

August 3, 2018

The Honorable Pedro Flores
Mayor of La Grulla
P.O. Box 197
La Grulla, Texas 78548

Re: TCEQ Enforcement Action
City of La Grulla
Docket No. 2017-0255-PWS-E

Dear Mayor Flores:

Enclosed for your records is a fully-executed copy of the Agreed Order for the above-referenced matter.

Please review the enclosed Agreed Order, particularly the "Ordering Provisions" section, to determine if further action will be required of you, such as the completion of technical requirements to achieve compliance. When technical requirements are listed (usually Ordering Provision No. 2 or 3), a deadline will be provided based on a specific number of days after the effective date. The effective date is as stated in the enclosed Agreed Order.

Should you have any questions, please contact Ryan Byer, the Enforcement Coordinator assigned to this matter, at (512) 239-2571.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Parrish".

Michael Parrish
Enforcement Division

Enclosure

cc: Ryan Byer, Enforcement Division
Water Section Manager, Region 15